REMARKS/ARGUMENTS

Claims 1, 2, 5-8, and 11-13 are pending in the present application.

This Amendment is in response to the Office Action mailed July 15, 2009. In the Office Action, the Examiner rejected claims 1-2, 5-8, and 11-13 under 35 U.S.C. §103(a). Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1-2, 5-8, and 11-13 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0120574 issued to Ezaki ("Ezaki") in view of U.S. Patent No. 7,224,819 issued to Levy ("Levy"). Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, certain basic criteria must be met. For instance, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. MPEP §2143. Applicant respectfully submits that the combined teachings do not address each and every limitation, and thus no *prima facie* case of obviousness has been established.

Furthermore, the Supreme Court in Graham v. John Deere, 383 U.S. 1, 148 USPQ 459 (1966), stated: "Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined." MPEP 2141. In KSR International Co. vs. Teleflex, Inc., 127 S.Ct. 1727 (2007) (Kennedy, J.), the Court explained that "[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order *to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue*." *Emphasis Added.* The Court further required that an explicit analysis for this reason must be made. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to

support the legal conclusion of obviousness." KSR, 127 S.Ct. at 1741, quoting In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006).

In the instant case, Applicant respectfully submits that the combined teachings of the cited prior art references do not teach or suggest all the claim limitations. Furthermore, Applicant respectfully submits that there are significant differences between the cited references and the claimed invention and thus, there is no apparent reason to combine the known elements in the manner as claimed. No *prima facie* case of obviousness has been established.

Ezaki and Levy, alone or in combination, do not disclose, at least, (1) generating access control information and a control word based on subscriber information, the access control information including CAT, entitlement control message (ECM) and entitlement management message (EMM); (2) the use control metadata including copy control information (CCI), broadcasting flag (BF) and retention information (RI), wherein the content ID is abstracted and used for determining whether a content is an unlawful broadcasting content when the broadcasting content is distributed unlawfully, or the content ID is abstracted and used for determining whether a content that are broadcasted currently is authentic or not after monitoring; and (3) a scrambling means for scrambling the re-multiplexed signal by using the control word, as recited in claims 1, 7, and 13.

The Examiner alleges that Ezaki discloses "generating access control information and a control word based on subscriber information, the access control information including CAT, entitlement control message (ECM) and entitlement management message (EMM)," as recited in claims 1, 7, and 13, citing Ezaki, paragraph [0172]. Applicant disagrees and submits that Ezaki, paragraph [0172] merely states:

> "The rights processing metadata contains an ECM (Entitlement Control Message) and an EMM (Entitlement Management Message). A decryption section 482 decrypts the EMM using a master key Km recorded on the BS-CAS IC card in order to obtain a work key and contract information. Next, a decryption section 481 decrypts the-ECM using the work key in order to obtain a scrambling key Ksc. Also, the contract information obtained by the decryption section 482 is stored in a PPV data storage section 483." (Ezaki, par. [0172]).

There is nothing in this cited portion of Ezaki which discloses "generating a control word based on subscriber information." *Emphasis Added.*

Additionally, since there is no teaching of "a control word," Ezaki also fails to disclose "a scrambling means for scrambling the re-multiplexed signal by using the control word" as recited in the claims. While the Examiner alleges that Ezaki, paragraph [0092], discloses this element, this portion of Ezaki merely states:

> "The CAS processing section 12 descrambles a scrambling process applied to broadcast content on the basis of a contract concerning CAS (Conditional Access System) exchanged with the content distributor. For digital broadcasting in Japan, a common scrambling method called "Multi2" is adopted for both BS and CS. However, since the CAS process itself is not related to the scope and spirit of the present invention, no further description is given here." (Ezaki, par. [0092])

There is no teaching of "a control word" or "scrambling by using the control word" in Ezaki.

Further, Ezaki merely discloses the rights processing metadata in Ezaki contains an ECM (Entitlement Control Message) and an EMM (Entitlement Management Message) (Ezaki, par. [0172]). In contrast, the claims recite "the access control information including CAT, entitlement control message (ECM) and entitlement management message (EMM)." *Emphasis Added.* Given that there is no teaching in Ezaki of the rights processing metadata including CAT, the rights processing metadata cannot correspond to the "access control information."

Moreover, the Examiner alleges that Ezaki discloses "the use control metadata including copy control information (CCI), broadcasting flag (BF) and retention information (RI), wherein the content ID is abstracted and used for determining whether a content is an unlawful broadcasting content when the broadcasting content is distributed unlawfully, or the content ID is abstracted and used for determining whether a content that are broadcasted currently is authentic or not after monitoring," citing Ezaki, paragraphs [0085], [0111], [0112], and [0164] (Office Action, page 3). Applicant respectfully disagrees and submits that nothing in the cited portions of Ezaki discloses, *inter alia*, CCI, BP, RI and content ID, as recited in the claims. In fact, Ezaki merely states:

> "For the RMP specification description format shown in the foregoing, in addition to the identification information (RMP ID) for identifying the RMP method being contained at the beginning, an encryption algorithm for encrypting distributed content, an encryption algorithm for encrypting a content key Ks used to encrypt distributed content, an encryption algorithm for encrypting a distribution key Kd which is used during

content distribution, a storage key Kst used to store distributed content, and a format for storing a log can be specified. For the encryption method, generally, DES (Data Encryption Standard), Multi2, etc., is used." (Ezaki, par. [0085])

"By executing the software RMP module loaded into the work memory 35, the CPU 32 operates according to the RMP specification description written as rights processing metadata, so that content processing, such as decryption of encrypted content, external output as playback content, and storage onto the hard disk device 33A and a removable medium, can be performed. When content is to be received from a content distributor adopting a CAS method, a CAS module for performing the corresponding decryption/descrambling process may be loaded similarly into the work memory 35." (Ezaki, par. [0111])

"The decoder output device 36 performs a decoding process for decoding playback content after rights processing, and external output. For example, in the case of AV content, the decoder output device 36 separates the content into compressed video data and compressed audio data. Then, the MPEG2-compressed video data is decompressed so that the original video signal is played back, and for the compressed audio data, after it is PCM (Pulse Code Modulation)-decoded, it is combined with additional sound in order to form a playback audio signal." (Ezaki, par. [0112])

"A determination section 464 verifies the validity of the content receiver 400C on the basis of the contract information obtained by the decryption section 462. When it is determined that the content receiver 400C is valid, the scrambling key Ksc is supplied to a decryption section 465." (Ezaki, par. [0164])

Applicant respectfully submits that there is no teaching of the above elements of the claims in Ezaki.

Therefore, Applicant believes that independent claims 1, 7, and 13 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejection under 35 U.S.C. §103(a) be withdrawn.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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